

**TITLE 8 DEVELOPMENT CODE**  
**DIVISION 9: PLANT PROTECTION AND MANAGEMENT**  
**CHAPTER 1: GENERAL PROVISIONS.**  
**Sections:**

89.0101	Purpose.
89.0105	Intent.
89.0110	Scope.
89.0115	Removal Permit.
89.0120	Findings for Removal.
89.0125	Plot Plan Requirements.
89.0130	Construction Standards.
89.0140	Enforcement.
89.0145	Penalties.

**89.0101 Purpose.**

The County finds that it is in the public interest to promote the continued health of this County's abundant and diverse plant resources, by providing regulations and guidelines for the management of the plant resources in the unincorporated areas of San Bernardino County on property or combinations of property under private or public ownership for the following purposes:

- (a) To promote and sustain the health, vigor and productivity of plant life and aesthetic values within the County through appropriate management techniques.
- (b) To conserve the native plant life heritage for the benefit of all, including future generations.
- (c) To protect native trees and plants from indiscriminate removal, and to regulate such activity.
- (d) To provide a uniform standard for appropriate removal of native trees and plants in public and private places and streets to promote conservation of these valuable natural resources.
- (e) To protect and maintain water productivity and quality in local watersheds.
- (f) To preserve habitats for rare, endangered or threatened plants and protect animals with limited or specialized habitats.

Readopted Ordinance 3341 (1989); Amended Ordinance 3374 (1990)

**89.0105 Intent.**

The general provisions established by this chapter shall apply to all subsequent chapters of this Division, unless specifically exempted.

Readopted Ordinance 3341 (1989)

**89.0110 Scope.**

(a) The provisions of this Division shall apply to all private land within the unincorporated areas of San Bernardino County and to public lands owned by the County except as specified by the provisions of this Division.

(b) EXCEPTIONS. The provisions of this Division, except those of Chapter 2 are not applicable to the removal of any regulated native tree or desert native plants as part of any of the following situations. Such removal actions shall not authorize the removal of perch trees within identified American Bald eagle habitat.

(1) Removal as part of a timber operation conducted under the Forest Practice Act of 1973(California Public Resources Code, Division 4, Part 2, Chapter 8.).

(2) Removal from lands owned by the United States Government, State of California or local governmental entity, excluding Special Districts.

(3) Removal by any public utility subject to jurisdiction of the Public Utilities Commission or any other constituted public agency, including franchised cable TV where to establish or maintain safe operation of facilities under their jurisdiction, trees are pruned, topped or braced.

(4) Removal by the California Department of Forestry and Fire Protection.

(5) Removal under the authority of:

(A) Forest Improvement Program.

(B) California Forest Improvement Program.

(C) Agricultural Conservation Program.

(6) Removal required by other codes, ordinances or laws of San Bernardino County, the State of California or the United States.

(7) Removal of native trees and plants which are an immediate threat to the public health, safety or welfare and require emergency removal to prevent probable damage to a structure or injury to people or fenced animals.

(8) Removal as part of a stocking control program prepared by a California Registered Professional Forester.

(9) Removal as part of a fire hazard reduction program approved by the County Fire Warden and/or a local Fire Authority.

(10) Removal as part of a bona fide agricultural activity as determined by the Agricultural Commissioner which is:

(A) Conducted under a land conservation contract; and/or

(B) An existing agricultural activity, including expansions of such activity onto undisturbed contiguous land; and/or

(C) A proposed bona fide agricultural activity if the Agricultural Commissioner is given thirty (30) days written notice of the removal describing the location of the land, the nature of the proposed activity, and the proposed sources of water for the activity. The County Agricultural Commissioner shall notify the landowner in writing prior to the elapse of the thirty (30) day period if, in the opinion of the County Agricultural Commissioner, the activity is not a bona fide agricultural activity, or else the activity shall be deemed bona fide.

A bona fide agricultural activity is one which is served by a water distribution system adequate for the proper operation of such activity.

(11) Removal on lots that have a net area of twenty thousand (20,000) square feet or less, which are developed with a primary structure, other than a signstructure.

(12) Any regulated native plant or tree that is within twenty (20) feet of a structure on the lot that was constructed or set down under a County development permit.

(13) Removal of two (2) or fewer regulated native trees in the mountain or valley area per year per acre for private fuel wood purposes. The year shall be measured as the last twelve (12) consecutive months.

(c) CONDITIONS. The permits authorized by this Division may be subject to conditions required by the reviewing authority. Such conditions may specify criteria, methods and persons authorized to conduct the proposed activities which are subject to the permit. Where applicable regulated trees and plants may be required to be transplanted and/or stockpiled for future transplanting.

Readopted Ordinance 3341 (1989)

#### **89.0115 Removal Permit.**

(a) A removal permit shall be required for the removal of any native tree or plant that is subject to the provisions of this Division.

(b) A land use application, a building permit and all other development permits (e.g., grading, mobilehome setdowns, etc.), shall consider and include a review of any proposed native tree or plant removal. Any approved land use application and/or development permit shall be a permit for the removal of native trees or plants, if such land use application or development permit specifically reviews and approves such removals. Such reviews shall consider and require compliance with the provisions of this Division.

(c) The reviewing authority may require certification from an appropriate tree expert or desert native plant expert that such tree removals are appropriate, supportive of a healthy environment and are in compliance with the provisions of this chapter.

(d) Removals of native trees or plants that are not requested in conjunction with a land use application or development permit may be accomplished only under a permit issued by either the County Agricultural Commission or the County Fire Warden, subject to the provisions of this chapter.

(e) The Building Official or the Director of Environmental Health Services Department shall require a preconstruction inspection prior to approval of development permits.

(f) The duration of a plant or tree removal permit when issued in conjunction with a land use application and/or a development permit shall be coterminous with the duration of the associated application or permit, unless otherwise specified. The Reviewing Authority shall specify the expiration date for all other tree and/or plant removal permits.

Readopted Ordinance 3341 (1989)

#### **89.0120 Findings for Removal.**

The Reviewing Authority shall authorize the removal of a native tree or plant subject to provisions of this chapter only if the following findings are made:

(a) The removal of the native tree or plant is justified for one (1) of the following reasons:

(1) The location of the native tree or plant and/or its dripline interferes with an allowed structure, sewage disposal area, paved area or other approved improvement or ground disturbing activity.

(2) The location of the native tree or plant and/or its dripline interferes with the planned improvement of a street or development of an approved access to the subject or adjoining private property.

(3) The location of the native tree or plant is hazardous to pedestrian or vehicular travel or safety.

(4) The native tree or plant or its presence interferes with or is causing extensive damage to utility services or facilities, roadways, sidewalks, curbs, gutters, pavement, sewer line(s), drainage or flood control improvements, foundations, existing structures or municipal improvements.

(5) The condition or location of the native plant or tree is adjacent to and in such close proximity to an existing or proposed structure that the native plant or tree has or will sustain significant damage.

(6) In the mountain area only - a Registered Professional Forester has certified in writing that the condition or location of the subject tree is contributing to an overstocked tree stand conditions such that its removal will improve the overall health, safety and vigor of the stand of trees containing the subject tree.

(7) In the Desert Area only - the Director of Building and Safety must make a finding that no other reasonable alternative exists for the development of the land when the removal of specimen size Joshua Trees is requested. Specimen size trees are defined as meeting one or more of the following criteria:

(A) A circumference measurement equal to or greater than fifty (50) inches measured at four (4) feet from grade.

(B) Total tree height of fifteen (15) feet or greater.

(C) Trees possessing a bark-like trunk.

(D) A cluster of ten (10) or more individual trees, of any size, growing in close proximity to each other.

(b) In the mountain area only:

(1) Where improvements are proposed, the design of such improvements has incorporated at least the following minimum percentage of the subject lot area in a natural undeveloped vegetated or revegetated condition that maintains or establishes the forest environment with sufficient vegetative coverage as determined by the reviewing authority. At least one half (1/2) of such natural areas for all uses except single-family residential uses shall be located in the front yard area or located such that significant portions are visible from the public thoroughfare on which the improvements are to be located.

(A) Twenty percent (20%) of commercial, industrial and administrative/professional uses.

(B) Thirty-five percent (35%) of multi-unit residential uses.

(2) A perch tree within the identified Bald Eagle Habitat may not be removed without an adequate substitution provided.

(c) In the desert area only Joshua trees that are proposed to be removed will be transplanted or stockpiled for future transplanting wherever possible. In the instance of stockpiling, the permittee has complied with Department policy to insure Joshua trees are transplanted appropriately.

Readopted Ordinance 3341 (1989); Amended Ordinance 3423 (1990)

#### **89.0125 Plot Plan Requirements.**

Prior to the issuance of a native tree or plant removal permit in conjunction with a development permit and/or approval of a land use application which authorizes such removal, a plot plan shall be approved by the appropriate County Review Authority for each site indicating exactly which trees or plants are authorized to be removed. The required information can be added to any other required plot plan. Prior to issuance of development permits in areas with native trees or plants that are subject to the provisions of this Division, a preconstruction inspection shall be conducted by the appropriate authority. Such preconstruction inspections may be combined with any other required inspection.

Readopted Ordinance 3341 (1989)

#### **89.0130 Construction Standards.**

During construction and prior to final inspection under a development permit, the following standards shall apply unless otherwise approved in writing by a Tree Expert:

(a) Native tree trunks and plants shall not be enclosed within roof lines or decking.

(b) Utilities, construction signs, or other hardware shall not be attached so as to penetrate or abrade any live native tree or plant.

(c) Grade Alterations. There shall be no grade alterations which buries any portion of a native tree or plant or significantly undercuts the root system within the dripline.

Readopted Ordinance 3341 (1989)

#### **89.0140 Enforcement.**

(a) The provisions of Title 8, Division 1, Chapter 2, shall apply to this Division, including those regarding enforcement and enforcement officers.

(b) The provisions of this Division shall be enforced by any authorized member of the Environmental Public Works Agency, the County Agriculture Commissioner, The County Forestry and Fire Warden Department, and may be enforced by the California Department of Forestry, where applicable.

(c) The following establishes the primary lead responsibility for review and enforcement of the provisions of this Division for the listed activities and/or areas:

(1) County Forestry and Fire Warden Department - Valley and Mountain areas.

(2) County Agricultural Commissioner - Desert area and all agricultural activities.

(3) County Land Management Department - All plants/trees removed in conjunction with a land use application or development permit.

(4) The County Fire Department or the Division of Environmental Health Services all plants/trees removed in conjunction with a Residential Mobilehome Setdown Permit, Special Use Permit and/or Temporary Use Permits.

(d) Extension of Time. If any of the land governed by this Division shall be subject to snow, flooding, or other conditions which shall render compliance with the provisions of this Division within the specified time periods impractical because of inaccessibility, an enforcement officer may extend the period of time for compliance.

(e) A peace officer or any authorized enforcement officer may, in the enforcement of this chapter, make arrests without warrant for a violation of this chapter which he or she may witness, and may confiscate regulated native trees or plants, or parts thereof which are unlawfully harvested, possessed, sold, or otherwise obtained in violation of this chapter. Also any designated enforcement officer is hereby authorized and directed to enter in or upon any premises or other place, train, vehicle, or other means of transportation within or entering the state, which is suspected of containing or having present therein or thereon native plants in violation of this Division in order to examine permits and wood receipts and observe tags and seals and to otherwise enforce the provisions of this chapter.

(f) When any power or authority is given by any provision of this chapter to any person, it may be exercised by any deputy, inspector, or agent duly authorized by that person. Any person in whom the enforcement of any provision of this chapter is vested has the power of a peace officer as to that enforcement, which shall include state or federal agencies with which cooperative agreements have been made by the County to enforce the provisions of this chapter.

(g) No person shall remove or damage all or part of any native tree or plant on another property without first obtaining notarized written permission from the landowner and any required permits, wood receipts or tags and seals. Also it is unlawful for any person to falsify any document offered as evidence of permission to enter upon the property of another to harvest all or parts of a native tree or plant, whether it be alive or dead.

(h) No person, except as provided in this chapter, shall harvest, offer for sale, destroy, dig up or mutilate or have in his or her possession any regulated native plant or tree, or the living or dead parts of such unless the plant or tree was harvested under a valid permit, and where applicable, a valid wood receipt on his or her person. Any such person shall exhibit the permit, wood receipt, tags and/or seals upon request for inspection by any duly authorized County Enforcement Officer or any peace officer. No wood receipt or tag and seal is valid unless it is issued with a valid permit and the permit bears the tag number or wood receipt number on its face. Any required tags and seals shall be attached securely to a regulated desert native plant.

(i) No person, except as provided in this chapter, shall commence with a disturbance of land (e.g. grading or land clearing) without first obtaining approval to assure that said disturbance will not result in the removal of any regulated native trees or plants. Said approval may be in the form of a development permit, a native plant harvesting permit or a tree removal permit issued by the appropriate authority.

Readopted Ordinance 3341 (1989); Amended Ordinance 3611 (1995)

#### **89.0145 Penalties.**

Penalties shall be those specified in Division 1, Chapter 2 of the Development Code, and shall include the following and any other penalties specified by individual chapters of this Division.

(a) **ILLEGALLY REMOVED NATIVE TREE OR DESERT NATIVE PLANT FINE.** In addition to other penalties and fees imposed by this Code or other law, any person, firm or corporation convicted of a violation of the provisions of this Division shall be guilty of a misdemeanor upon conviction. When one (1) or more plants or trees are removed in violation of the provisions of this Division, the removal of each such separate plant or tree shall be a new and separate offense. The penalty for such offense shall be a fine of not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000) or six (6) months in jail or both. Payment of any penalty herein provided shall not relieve a person, firm or corporation from the responsibility of correcting the condition resulting from the violation.

(b) **ILLEGALLY REMOVED NATIVE TREE OR DESERT NATIVE PLANT REPLACEMENT PENALTY.**

(1) In addition to other penalties imposed by this Code or other law, any person, firm, or corporation convicted of violating the provisions of this Division regarding improper removal of regulated native trees or plants shall be required to retain as appropriate, a tree or Desert Native Plant expert to develop and implement a replacement program. Such expert shall determine the appropriate number, size, species, location and planting conditions for replacement plants or trees in sufficient quantities to revegetate the illegally disturbed area.

If it is inappropriate to revegetate the illegally disturbed area, another appropriate location (e.g., public parks) may be substituted at the direction of the court.

(2) The violator shall post a bond in an amount sufficient to remove and reinstall plant/tree materials that were planted as a part of such a replacement program and failed within two (2) years.

(c) **REVOCATION OF PERMITS.** Upon conviction of a violation of this Division, all native trees or desert native plant removal permits issued to the person, firm or corporation convicted shall be revoked and no new or additional removal permits shall be issued to the permittee for a period of one (1) year from the date of conviction and additionally in the desert area the permittee shall be required to surrender any unused tags and seals or wood receipts to the Agricultural Commissioner.

Readopted Ordinance 3341 (1989)